

Filed: September 29, 1998

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 98-1775
(97-1342-BLA, 96-1335-BLA)

George S. Miller,

Petitioner,

versus

Carbon Fuel Company, et al.,

Respondents.

O R D E R

The court amends its opinion filed September 23, 1998, as follows:

On the cover sheet, section 5 -- a footnote is added to show that Judge Michael recused himself, and the opinion is filed by a quorum of the panel.

For the Court - By Direction

/s/ Patricia S. Connor
Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-1775

GEORGE S. MILLER,

Petitioner,

versus

CARBON FUEL COMPANY; DIRECTOR, OFFICE OF
WORKERS' COMPENSATION PROGRAMS, UNITED STATES
DEPARTMENT OF LABOR,

Respondents.

On Petition for Review of an Order of the Benefits Review Board.
(97-1342-BLA, 96-1335-BLA)

Submitted: September 10, 1998 Decided: September 23, 1998

Before MURNAGHAN, MICHAEL,* and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

George S. Miller, Petitioner Pro Se. Mary Rich Maloy, JACKSON &
KELLY, Charleston, West Virginia; Jeffrey Steven Goldberg,
Christian P. Barber, UNITED STATES DEPARTMENT OF LABOR, Washington,
D.C., for Respondents.

* Judge Michael recused himself from consideration of this case. The opinion is filed by a quorum of the panel pursuant to 28 U.S.C. § 46(d).

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of black lung benefits pursuant to 30 U.S.C.A. §§ 901-945 (West 1986 & Supp. 1998). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we affirm on the reasoning of the Board. Miller v. Carbon Fuel Co. BRB Nos. 97-1342-BLA; 96-1335-BLA (B.R.B. Apr. 23, 1998). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED